

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 99B.13, the Department of Inspections and Appeals hereby amends Chapter 104, ‘Amusement Devices,’ and adopts new Chapter 105, ‘Registered Amusement Devices,’ Iowa Administrative Code.

The adopted amendments implement 2003 Iowa Acts, House File 594, an Act relating to the registration of electrical and mechanical amusement devices. The amendments: require that all amusement devices be registered annually with the Department of Inspections and Appeals; impose a \$25 per device registration fee; require all manufacturers, manufacturers’ representatives, and distributors of amusement devices to register annually and pay an annual \$2,500 registration fee; set out penalties for violations; and make corresponding technical changes to Chapter 104 to bring it into compliance with the requirements of 2003 Iowa Acts, House File 594.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 29, 2003, as **ARC 2912B**. A public hearing on the adopted amendments was held November 19, 2003, at which time the department received comments from several individuals. Additional comments were presented to the department throughout the public comment period. The department considered the comments and made several technical changes to the amendments in

response to the public input. Included in the changes are clarifications in definitions, as well as the process used to register manufacturers, manufacturers' representatives, and distributors.

These amendments are intended to implement Iowa Code chapter 99B and 2003 Iowa Acts, House File 594.

The amendments will become effective February 11, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **481--104.1(10A,99B)** by adding the following **new** definition in alphabetical order:

“Prize” means a ticket(s) or token(s) that is dispensed by an amusement device as an award for use and that is worth up to \$5 in merchandise.

ITEM 2. Amend rule **481--104.3(99B)** by adding the following **new** numbered paragraph “5”:

5. Amusement devices designed or adapted to facilitate gambling.

ITEM 3. Amend subrule **104.4(3)** by adding the following **new** paragraphs “f” and “g”:

f. If the entire amount of the ticket or token issued by the amusement device is not redeemed for merchandise, the balance shall not be redeemed for cash.

g. Tickets or tokens shall only be redeemed on the premises where the amusement device is located and only for merchandise sold in the normal course of business on the premises.

ITEM 4. Amend rule **481--104.6(99B)**, numbered paragraph “1,” as follows:

1. Conviction for illegal gambling ~~ranging from a serious misdemeanor to a class “C” felony, fines of up to \$10,000, or confinement up to ten years~~ under the provisions of Iowa Code chapter 725.

ITEM 5. Adopt the following **new** chapter:

CHAPTER 105

REGISTERED AMUSEMENT DEVICES

481--105.1(10A,99B) Definitions. Definitions in rule 481--104.1(10A,99B) are incorporated by reference in this chapter. In addition, the following definitions apply to the possession and use of registered amusement devices.

“Distributes” means to deliver, to provide or to otherwise make available in Iowa amusement devices required to be registered in accordance with these rules.

“Operation” means that a registered amusement device is made available for use by the public or made available for use on the premises of a social or charitable organization.

“Organization” means an entity that meets the requirements of Iowa Code section 99B.7(1)“m.”

“Owner” means any person who owns an operable registered amusement device. Each registered amusement device shall be registered in accordance with these rules before the device is made available for use by a member of the public or use on the premises of a social or charitable organization.

“Person” means a person as defined by Iowa Code section 4.1.

“Premises” means a location where one or more registered amusement devices are available for public use.

“Prize” means a ticket(s) or token(s) that is dispensed by a registered amusement device as an award for use and that is worth up to \$5 in merchandise.

“Registered amusement device” means an electrical and mechanical amusement device in operation subject to registration by the department pursuant to Iowa Code section 99B.10 as amended by 2003 Iowa Acts, House File 594, section 1(4), and includes both the external and

internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word “change” as used herein does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be re-registered before it is made available for operation.

“Registered amusement device distributor” means any person who distributes an amusement device required to be registered in accordance with these rules, whether by sale, lease, or any other arrangement or contract, written or oral, whereby an amusement device required to be registered in accordance with these rules is made available for operation in Iowa. For purposes of this definition, a social or charitable organization licensed under Iowa Code chapter 99B is not a distributor unless the organization is engaged in the business of distributing registered amusement devices. A registered amusement device distributor is required to register all machines in operation owned by the distributor.

“Registered amusement device manufacturer” means a person engaged in business in this state who originally produces registered amusement devices or individual components for use in registered amusement devices.

“Registered amusement device manufacturers’ representative” means a person engaged in business in this state who promotes or sells registered amusement devices or individual components for use in a registered amusement device on behalf of a registered amusement device manufacturer.

481--105.2(99B) Registered amusement device restrictions. A registered amusement device may be owned or possessed by any person at any location, subject to the limitations set forth at section 105.6(4). The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section 99B.10 as amended by 2003 Iowa Acts, House File 594, section 1, and 481--104.2(99B). The registered amusement device shall not be designed or adapted to facilitate gambling. If the department, or the department's designee, determines that a registered amusement device is non-compliant with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, manufacturers' representative, or the distributor, may be revoked.

481--105.3(99B) Prohibited registered amusement devices. The following devices are prohibited:

1. Amusement devices registered in violation of statutory or regulatory requirements governing such devices.
2. Registered amusement devices that are prohibited by 481--104.3(99B).
3. Any registered amusement device that does not conform to the requirements in these rules or Iowa Code chapter 99B as amended by 2003 Iowa Acts, House File 594.
4. Any registered amusement device designed or adapted to facilitate gambling.

481--105.4(99B) Prizes. Prizes may be awarded for use of a registered amusement device, but only in conformance with 481--104.4(99B). All prizes awarded must be in conformance with each of the requirements imposed by 481--104.4(99B).

481--105.5(99B) Registration by a manufacturer, manufacturers' representative, or

distributor. A person engaged in business in Iowa as a registered amusement device manufacturer, a registered amusement device manufacturers' representative or a registered amusement device distributor shall be registered with the department prior to engaging in the business in Iowa. A person shall register under each of the categories that apply to the business to be conducted in Iowa and shall pay the \$2,500 fee for each category of registration.

105.5(1) Each person who registers with the department shall pay an annual registration fee of \$2,500.

105.5(2) Registration forms are available from the Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083. Persons required to register pursuant to these rules may register electronically at the following Web site: <https://www.egov.state.ia.us/gmms/>.

105.5(3) If registration information changes, the department shall be notified in writing or electronically of the changes within ten working days.

105.5(4) Registration fees are nonrefundable.

481--105.6(99B) Registration of registered amusement devices. Each owner of an amusement device subject to registration by the department pursuant to Iowa Code section 99B.10 as amended by 2003 Iowa Acts, House File 594, section 1(4), shall obtain a registration. A registration issued pursuant to Iowa Code chapter 99B is required to offer a registered amusement device for use. Upon the transfer of ownership of a registered amusement device, the new owner shall obtain a new registration for the registered amusement device.

105.6(1) Each owner of an amusement device subject to the registration requirements imposed by this chapter shall register the device before it is made available for operation. Each new owner is required to obtain a new registration for the registered amusement device immediately upon taking possession of the registered amusement device.

105.6(2) Upon receipt of an application and a fee of \$25 for each registered amusement device, the department shall issue an annual registration tag, which shall be valid for a period of one year from the date of issuance.

Application forms are available from the Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083. The application form shall contain all information required by the department.

Applicants may also apply electronically for registration tags at the following Web site:
<https://www.egov.state.ia.us/gmms/>.

The registration tag shall be prominently displayed on the front of the registered amusement device in such manner as to be clearly visible to the general public.

Any changes to the information provided on the application, including but not limited to changes in ownership, registered amusement device location, and the cessation of business in this state, shall be reported to the department in writing or electronically within ten working days.

Registration fees are nonrefundable.

105.6(3) A registered amusement device must be obtained from a registered amusement device manufacturer, a registered amusement device manufacturers' representative or a registered amusement device distributor that is registered with the department pursuant to 2003 Iowa Acts, House File 594, section 2, and this chapter. The owner of the registered amusement

device shall exercise due diligence in ensuring that the amusement device is compliant with these rules and all laws governing such devices. Upon request by the department or the department's designee, manufacturers, manufacturers' representatives, and distributors registered with the department shall be required to permit inspection of any amusement device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device. Upon request by the department or the department's designee, any owner of a registered device shall be required to permit an inspection of the registered device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device.

105.6(4) A charitable organization shall not permit or offer for use more than four registered amusement devices at any single premises. All other persons shall not permit or offer for use more than two registered amusement devices at any single premises.

481--105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B as amended by 2003 Iowa Acts, House File 594, may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a wine or beer permit or of a liquor license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in revocation of a registration.
5. The department may revoke a registration or refuse to issue a registration for cause.

6. A registration may be revoked if the registrant or agent of the registrant violates or permits a violation of Iowa Code chapter 99B as amended by 2003 Iowa Acts, House File 594.

7. A registration may be revoked upon the violation of any rule adopted by the department under this chapter.

8. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B as amended by 2003 Iowa Acts, House File 594.

9. The registration of a registered amusement device may be revoked upon evidence of noncompliance with any laws or rules governing such devices.

The period for revocation or refusal to issue or both shall not exceed two years.

481--105.8(10A,99B) Appeal rights. Decisions to refuse to issue a registration or to revoke a registration by the department may be appealed in accordance with the procedures set out in 481--Chapter 10. The refusal to issue a registration or the notice of revocation shall be in writing and state the specific grounds for the action. When an appeal is received, the status of the registration is governed by the following standards:

105.8(1) No registration will be issued when a new application is denied.

105.8(2) A previously issued registration remains effective until a final agency decision is issued.

These rules are intended to implement Iowa Code chapter 99B and 2003 Iowa Acts, House File 594.

Date

Signature

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